

AMENDED IN SENATE MAY 25, 2004

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY MARCH 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 84**

**Introduced by Assembly Member ~~Cogdill~~ Levine**

January 6, 2003

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~~An act to amend Section 421 of the Public Utilities Code, relating to public utilities. An act to add Section 6890 to the Elections Code, relating to elections.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 84, as amended, ~~Cogdill~~ Levine. ~~Public utilities: common carrier fees: annual audit~~ Candidates for President: felons.

*Under existing law, the Secretary of State is required to place the name of a candidate meeting certain criteria upon the presidential primary ballot when he or she determines that the candidate is generally advocated for or recognized throughout the United States of California as actively seeking the nomination of a specified party. Existing law also provides that a felon who is in prison or on parole may not register to vote.*

*This bill would prohibit felons in prison or on parole from being recognized as candidates for the presidency or from being included by the Secretary of State as candidates upon the presidential primary ballot for any party.*

~~Under existing law, the Public Utilities Commission is required to establish fees to be paid by every common carrier and related business, equaling the amount of the commission's annual budget prorated to the extent of the commission's regulatory duties with respect to each class of carrier or related business for which each particular fee is established. Existing law requires the commission, commencing with the 1993-94 fiscal year, until the 1999-2000 fiscal year, to conduct an audit of the expenditure of the funds received pursuant to these provisions, except that beginning with the 1996-97 fiscal year and until the 1999-2000 fiscal year, the audit was required to be conducted by the Bureau of State Audits, with the commission reimbursing the bureau for the costs of the audits.~~

~~This bill would require the bureau to conduct, or hire an outside independent auditor to conduct, an annual audit for the 2004-05, 2005-06, and 2006-07 fiscal years, and thereafter to conduct an audit biennially. The bill would require that the results of the audit be reported to the relevant policy and budget committees of the Legislature. The bill would require the commission to reimburse the bureau for the audits, at a cost not to exceed \$125,000 each, adjusted for inflation.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.—Section 421 of the Public Utilities Code is~~
- 2     ~~SECTION 1. Section 6890 is added to the Elections Code, to~~
- 3     ~~read:~~
- 4     ~~6890. Notwithstanding any other provision of law, a person~~
- 5     ~~who is imprisoned, or on parole, for the conviction of a felony shall~~
- 6     ~~not be deemed to be a candidate who is generally advocated for or~~
- 7     ~~recognized throughout the United States or California as actively~~
- 8     ~~seeking the nomination of any political party for President of the~~
- 9     ~~United States. Notwithstanding any other provision of law, the~~
- 10    ~~Secretary of State shall not include in any announcement or list~~
- 11    ~~specified in Section 6041, 6340, 6520, or 6720 the name of any~~
- 12    ~~person who is imprisoned or on parole for the conviction of a~~
- 13    ~~felony.~~
- 14    ~~amended to read:~~
- 15    ~~421.—(a) The commission shall annually determine a fee to be~~
- 16    ~~paid by every passenger stage corporation, charter party carrier of~~

1 ~~passengers, pipeline corporation, for-hire vessel operator,~~  
2 ~~common carrier vessel operator, railroad corporation, and~~  
3 ~~commercial air operator and every other common carrier and~~  
4 ~~related business subject to the jurisdiction of the commission,~~  
5 ~~except as otherwise provided in Article 3 (commencing with~~  
6 ~~Section 431) of this chapter and Chapter 6 (commencing with~~  
7 ~~Section 5001) of Division 2.~~

8 ~~(b) The annual fee shall be established to produce a total~~  
9 ~~amount equal to the amount established in the authorized~~  
10 ~~commission budget for the same year, including adjustments~~  
11 ~~appropriated by the Legislature and an appropriate reserve, to~~  
12 ~~regulate common carriers and related businesses, less the amount~~  
13 ~~to be paid from special accounts or funds pursuant to Section 403,~~  
14 ~~reimbursements, federal funds, other revenues, and~~  
15 ~~unencumbered funds from the preceeding year.~~

16 ~~(c) Notwithstanding any other provision of law, the fees paid~~  
17 ~~by railroad corporations shall be used for state-funded railroad~~  
18 ~~investigation and enforcement activities of the commission, other~~  
19 ~~than the rail safety activities funded by the Transportation~~  
20 ~~Planning and Development Account pursuant to Section 99315.5.~~  
21 ~~The railroad fees shall be set annually at a level which generates~~  
22 ~~not less than the amount sufficient to fund activities pursuant to~~  
23 ~~Sections 765.5, 7711, and 7712.~~

24 ~~(d) On January 1, 1992, the commission shall submit to the~~  
25 ~~Legislature a detailed budget implementing this section for the~~  
26 ~~1992-93 fiscal year. The commission shall also submit to the~~  
27 ~~Legislature by January 1, 1993, and on each January 1 thereafter,~~  
28 ~~a detailed budget for expenditure of railroad corporation fees for~~  
29 ~~the ensuing budget year. The budget for expenditure of railroad~~  
30 ~~corporation fees, for each of the 1996-97 and 1997-98 fiscal~~  
31 ~~years, shall not exceed the amount of three million dollars~~  
32 ~~(\$3,000,000). Expenditures of this budget shall be limited to the~~  
33 ~~following items:~~

34 ~~(1) Expenditures for employees occupying, and actually~~  
35 ~~performing service in, railroad safety personnel positions that are~~  
36 ~~directly involved in inspecting railroads and enforcing rail safety~~  
37 ~~regulations. The commission shall expend the funds budgeted~~  
38 ~~pursuant to this subdivision for the salaries, per diem, and travel~~  
39 ~~expenses of employees specified in this paragraph, unless by~~

1 ~~statute, the commission is specifically prohibited from expending~~  
2 ~~all or part of those funds.~~

3 ~~(2) Expenditures for employees occupying, and actually~~  
4 ~~performing service in, clerical and support staff positions that are~~  
5 ~~directly associated with railroad safety inspections.~~

6 ~~(3) Expenditures for legal personnel who actually pursue~~  
7 ~~violations of rail safety regulations beyond the informal complaint~~  
8 ~~level.~~

9 ~~(4) Expenditures for an audit by the Bureau of State Audits~~  
10 ~~pursuant to subdivision (f), not to exceed seventy-five thousand~~  
11 ~~dollars (\$75,000).~~

12 ~~(5) Expenditures for the pro rata share of the commission's~~  
13 ~~overhead costs while state personnel are actually occupying the~~  
14 ~~positions, and are performing the duties specified in paragraphs (1)~~  
15 ~~to (4), inclusive.~~

16 ~~(e) The Department of Finance shall notify the Joint~~  
17 ~~Legislative Budget Committee, pursuant to Section 28.00 of the~~  
18 ~~annual Budget Act, prior to authorizing any change in the Budget~~  
19 ~~Act appropriation for railroad corporation fees that is larger than~~  
20 ~~one hundred thousand dollars (\$100,000), or 10 percent of the~~  
21 ~~amount budgeted, whichever is less.~~

22 ~~(f) The Bureau of State Audits shall conduct, or hire an outside~~  
23 ~~independent auditor to conduct, an audit of the expenditure of the~~  
24 ~~funds received pursuant to this section. For the 2004-05, 2005-06,~~  
25 ~~and 2006-07 fiscal years, the audit shall be conducted annually.~~  
26 ~~Thereafter, the audit shall be conducted biennially. The Bureau of~~  
27 ~~State Audits shall report the results of each audit in writing to the~~  
28 ~~appropriate policy and budget committees of the respective houses~~  
29 ~~of the Legislature, on or before March 30 following the end of the~~  
30 ~~fiscal year being audited, and for biennial audits, the March 30~~  
31 ~~following the end of the second fiscal year, being audited. The~~  
32 ~~commission shall reimburse the Bureau of State Audits for the~~  
33 ~~costs of the audits. Any outside independent auditor shall be hired~~  
34 ~~pursuant to public bid in accordance with rules and procedures~~  
35 ~~established by the Bureau of State Audits. The cost of the audit~~  
36 ~~shall not exceed one hundred twenty-five thousand dollars~~  
37 ~~(\$125,000), adjusted for inflation.~~

38 ~~(g) On or before January 1, 1994, the commission shall hire a~~  
39 ~~minimum of four additional operating practices inspectors,~~  
40 ~~exclusive of supervisory personnel, who are, or shall become, by~~

1 ~~July 1, 1994, federally certified, for the purpose of enforcing~~  
2 ~~compliance by railroads operating in this state with state and~~  
3 ~~federal safety regulations.~~

4 ~~(h) The commission, in performing its duties, shall limit the~~  
5 ~~expenditure of funds for rail safety division purposes to those~~  
6 ~~railroad corporation fees collected pursuant to subdivision (d). In~~  
7 ~~no event, shall the commission fund railroad safety activities~~  
8 ~~utilizing funds from other commission accounts unrelated to~~  
9 ~~railroad safety.~~

